THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10317 OF 2005

AND

CONTEMPT CASE NO.1139 OF 2005

Dated : 14-02-2006

IN W.P.No.10317 of 2005 :

Between:

Korivi Chandrasekhar Rao … Petitioner

And

1. The Revenue Divisional Officer (Civil Supplies), Kandukuru Division, Kandukur and another …. Respondents

In C.C.No.1139 of 2005 :

Between:

Korivi Chandrasekhara Rao … Petitioner

And

1. Sri K. Nagababu, The Revenue Divisional Officer,

Kandukur, Prakasam District and another.

… Respondents

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COMMON ORDER :

W.P.No.10317 of 2005 has been filed with a prayer to declare the alleged action of the respondents in not supplying the essential commodities to the petitioner for distributing the same to the cardholders as arbitrary and illegal.

C.C.No.1139 of 2005 has been filed to punish the respondents for violating the interim order dated 28-4-2005 passed in W.P.M.P.No.13353 of 2005 directing the respondents to supply the essential commodities to the petitioner to distribute the same to the cardholders pending W.P.No.10317 of 2005.

In spite of several opportunities afforded, the respondents failed to file any counter-affidavit in W.P.No.10317 of 2005. However, counter-affidavit has been filed by the 2nd respondent – Mandal Revenue Officer, Lingasamudram Mandal, Prakasam district in C.C.No.1139 of 2005 in which, even the contentions raised in the writ petition have been explained.

In the circumstances, having heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents, the Writ Petition and the Contempt Case are decided together by this common order.

The facts, in brief, may be noted as under :

The petitioner was appointed as the dealer of the fair price shop No.1 of Peddapavani village, Lingasamudram Mandal, Prakasam district long back. The simple case of the petitioner is that though his authorization is subsisting, the respondents failed to supply the essential commodities for distribution to the cardholders. Hence, a Writ of Mandamus is sought declaring the action of the respondents in not supplying the essential commodities to the petitioner without there being any justifiable reason as arbitrary and illegal.

In the affidavit filed in support of the writ petition, the petitioner stated that since he was unwell, as per the advice of the Doctor he had applied for leave which was granted by the 2nd respondent – Mandal Revenue Officer, Lingasamudram Mandal, Prakasam district and the fair price shop was entrusted to the Panchayat Secretary of Peddapavani village. Thereafter, on 6-2-2005 he made a representation informing the Mandal Revenue Officer that he had regained his health and requesting to release the stocks for distribution to the cardholders. It is alleged that the 2nd respondent did not consider his request and had been avoiding to release the commodities to him at the behest of the political opponents and that in spite of the fact that he made a representation to the 1st respondent – Revenue Divisional Officer, there was no response.

This Court while directing Rule Nisi, by order dated 28-4-2005 in W.P.M.P.No.13353 of 2005 directed the respondents to supply the essential commodities to the petitioner to distribute the same to the cardholders pending further orders.

The version of the respondents, as could be seen from the counter-affidavit filed in C.C.No.1139 of 2005 on 1-12-2004, the 2nd respondent received a petition against the petitioner in which it was alleged that he failed to distribute the commodities to the Drought Pensioners, and Antodaya Annayogana Cardholders. On the basis of the same, the 2nd respondent visited the village on 9-12-2004 to enquire into the contents of the complaint and it was found that the petitioner was absent and on an enquiry it was found that no entries were made in the cards held by the complainants to show that the essential commodities were distributed to them. The wife of the petitioner stated that the petitioner had gone on some urgent work and she could not produce the accounts for verification. It was also found that the petitioner was not having any valid authorization and also he failed to file sales / stocks / distribution registers in the office for the months of October and November, 2004. Accordingly, the 2nd respondent submitted a report dated 9-12-2004 to the 1st respondent – Revenue Divisional Officer recommending cancellation of authorization of the petitioner and the Panchayat Secretary was kept in-charge of the fair price shop to avoid inconvenience to the public. Thus, the plea of the petitioner

that he was unwell and he was granted leave was categorically denied.

It is further stated that the 1st respondent – Revenue Divisional Officer issued a show-cause notice dated 4-6-2005 calling upon the petitioner to show-cause as to why his dealership should not be cancelled for not distributing the essential commodities to the cardholders. It is also alleged that the authorization of the petitioner was valid upto 31-3-2003 and thereafter he remitted the renewal fee of Rs.500/- only on 21-5-2004 and thus he is not having any valid authorization. Further, he also failed to pay the trade deposit of Rs.3,000/- as required under Sub-clause (2) of Clause-5 of the A.P. State Public Distribution System Control Order, 2001. It is further stated that the petitioner has filed the writ petition suppressing all the real facts. However, in compliance with the interim orders granted by this Court in W.P.M.P.No.13353 of 2005, the petitioner was allotted stocks of essential commodities for May, 2005 which he lifted. Thereafter, from June, 2005 onwards he failed to submit demand drafts and did not lift the stocks though allotment orders were issued on 7-6-2005. In the circumstances, to avoid inconvenience to the cardholders, alternative arrangements were made on 25-6-2005 for distribution of the essential commodities through the Panchayat Secretary. Hence, the writ petition and contempt case are misconceived and liable to be dismissed.

Heard the learned Counsel for both the parties at length and perused the material on record as well as the original record placed before this Court by the learned Government Pleader.

The learned Counsel for the petitioner vehemently contended that the allegation that the petitioner is not holding a valid authorisation beyond 31-3-2003 is absolutely false and incorrect. The learned Counsel further submits that as a matter of fact the petitioner remitted the renewal fee in accordance with the provisions of law, however, the respondents themselves failed to issue renewal orders. The learned Counsel further points out that the fact that the respondents never raised such an objection and were supplying the essential commodities even beyond 31-3-2003 without any interruption itself shows that the allegation that he does not possess valid authorization is untenable and invented only to defeat the legitimate rights of the petitioner.

On the other hand, the learned Government Pleader contends that the petitioner himself failed to distribute the commodities to the cardholders and when the 2nd respondent – Mandal Revenue Officer inspected the village he was absent and therefore the respondents were compelled to make alternative arrangements by keeping the Panchayat Secretary as in-charge of the shop to avoid inconvenience to the cardholders. The learned Government Pleader submits that the petitioner has deliberately suppressed all the real facts and filed the writ petition making false allegations against the respondent authorities.

As noted above, whereas the respondents allege that the petitioner is not holding valid authorization beyond 31-3-2003 since he failed to get it renewed following due process of law, the specific case of the petitioner is that he paid the renewal fee in time, but the respondents themselves failed to communicate orders of renewal.

It is relevant to note that even according to the respondents till October, 2004 the stocks were allotted to the petitioner for distribution to the Cardholders, Drought Pensioners and other Consumers. If that be so, whether the petitioner failed to pay the renewal fee as required under law for renewal of his authorization beyond 31-3-2003 is a question to be decided only after due enquiry. It is also relevant to note the fact that the 1st respondent issued a show-cause notice dated 4-6-2005 calling upon the petitioner to show-cause as to why his dealership should not be cancelled itself runs contrary to the plea of the respondents that the petitioner is not holding a valid authorization beyond 31-3-2003. Hence, for the purpose of this writ petition, I am not inclined to accept the version of the respondents that the petitioner is not holding a valid authorization beyond 31-3-2003.

Since, admittedly, in pursuance of the show-cause notice, the 1st respondent has not yet passed any final order, evidently the authorization in favour of the petitioner is subsisting as on today. Hence, the respondents are bound to release the essential commodities to the petitioner for supply to the cardholders.

Accordingly, the respondents are granted liberty to proceed with the enquiry initiated under the show-cause notice dated 4-6-2005 and to pass appropriate orders following due process of law. In case the respondents intend to press their contention that the petitioner is not holding valid authorization beyond 31-3-2003, the respondents shall issue a further notice to that effect calling upon the petitioner to submit his explanation and thereafter appropriate orders shall be passed after affording due opportunity to the petitioner to substantiate his plea that he paid the renewal fee within time as required under law. It is made clear that this Court shall not be understood to have expressed any opinion with regard to the validity of the authorisation of the petitioner and it is open to the respondents to arrive at their own conclusions uninfluenced by any of the observations made in this order.

So far as the allegation made by the petitioner in the Contempt Case that in spite of the interim directions granted by this Court in W.P.M.P.No.13353 of 2005, the respondents failed to release the commodities is concerned, it is again a disputed question of fact which cannot be enquired into by this Court since the respondents in their counter-affidavit pleaded that the petitioner himself failed to submit the demand drafts and did not lift the stocks. At any rate, the Contempt Case is only with regard to the alleged non-compliance of an interim order passed during the pendency of the writ petition which is now finally decided. Hence, at this stage, no further enquiry is necessary. Accordingly, the Contempt Case is closed.

The Writ Petition is accordingly disposed of with a direction to the respondents to release the essential commodities to the petitioner forthwith and to continue the same from time to time for distribution to the cardholders till the enquiry initiated against the petitioner is completed and appropriate orders are passed as directed above. No costs.

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G. ROHINI, J.

Dt.14-02-2006.

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